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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-245

13
14 **LEWIS E. BOWMAN, AKA LEWIS**
15 **EUGENE BOWMAN**
16 **P.O. Box 71678**
17 **Salt Lake City, UT 84171**
18 **Registered Nurse License No. 614089**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

19
20 Respondent.

21 **FINDINGS OF FACT**

22 1. On or about October 9, 2012, Complainant Louise R. Bailey, M.Ed., R.N., in her
23 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
24 Consumer Affairs, filed Accusation No. 2013-245 against Lewis E. Bowman, aka Lewis Eugene
25 Bowman ("Respondent") before the Board of Registered Nursing. Accusation No. 2013-245 is
26 attached as Exhibit 1 to the Default Decision Investigatory Evidence Packet and is hereby
27 incorporated by reference.

28 2. On or about February 20, 2003, the Board of Registered Nursing ("Board") issued
Registered Nurse License No. 614089 to Respondent. The Registered Nurse License expired on

1 August 31, 2004, and has not been renewed. Pursuant to Business and Professions Code ("Code")
2 section 2764, the expiration of Respondent's license does not deprive the Board of jurisdiction to
3 proceed with this disciplinary proceeding or to render a decision imposing discipline on the
4 license.

5 3. On or about October 9, 2012, Respondent was served by Certified and First Class
6 Mail copies of the Accusation No. 2013-245, Statement to Respondent, Notice of Defense,
7 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
8 and 11507.7) at Respondent's address of record which, pursuant to California Code of
9 Regulations, title 16, section 1409.1, is required to be reported and maintained with the Board.
10 Respondent's address of record with the Board was and is:

11 **P.O. Box 71678**
12 **Salt Lake City, UT 84171.**

13 4. Service of the Accusation was effective as a matter of law under the provisions of
14 Government Code section 11505, subdivision (c) and Business & Professions Code section 124.

15 5. On or about October 22, 2012 and October 25, 2012, the aforementioned documents
16 were returned by the U.S. Postal Service marked as "forwarding order expired."

17 6. On or about October 9, 2012, Respondent was served by Certified and First Class
18 Mail copies of the Accusation No. 2013-245, Statement to Respondent, Notice of Defense,
19 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
20 and 11507.7) at Respondent's current address on record with the Council on Licensure,
21 Enforcement and Regulation, which was and is:

22 **4737 Brittany Drive**
23 **Eagle Mountain, UT 84005.**

24 7. On or about October 29, 2012, the Domestic Return Receipt, for the aforementioned
25 documents, was returned to the Board, indicating that the documents were received on October
26 26, 2012. The individual that received the documents signed the Domestic Return Receipt in the
27 name of "Lewis Bowman."

28 8. Government Code section 11506 states, in pertinent part:

1 (c) The respondent shall be entitled to a hearing on the merits if the respondent
2 files a notice of defense, and the notice shall be deemed a specific denial of all parts
3 of the accusation not expressly admitted. Failure to file a notice of defense shall
4 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
5 may nevertheless grant a hearing.

6 9. Respondent failed to file a Notice of Defense within 15 days after service upon him
7 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
8 2013-245.

9 10. California Government Code section 11520 states, in pertinent part:

10 (a) If the respondent either fails to file a notice of defense or to appear at the
11 hearing, the agency may take action based upon the respondent's express admissions
12 or upon other evidence and affidavits may be used as evidence without any notice to
13 respondent.

14 11. Pursuant to its authority under Government Code section 11520, the Board finds
15 Respondent is in default. The Board will take action without further hearing and, based on the
16 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
17 taking official notice of all the investigatory reports, exhibits and statements contained therein on
18 file at the Board's offices regarding the allegations contained in Accusation No. 2013-245, finds
19 that the charges and allegations in Accusation No. 2013-245, are separately and severally, found
20 to be true and correct by clear and convincing evidence.

21 12. Taking official notice of its own internal records, pursuant to Business and
22 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
23 and Enforcement is \$867.50 as of November 8, 2012.

24 DETERMINATION OF ISSUES

25 1. Based on the foregoing findings of fact, Respondent Lewis E. Bowman, aka Lewis
26 Eugene Bowman has subjected his Registered Nurse License No. 614089 to discipline.

27 2. The agency has jurisdiction to adjudicate this case by default.

28 3. The Board of Registered Nursing is authorized to revoke Respondent's Registered
Nurse License based upon the following violations alleged in the Accusation which are supported
by the evidence contained in the Default Decision Evidence Packet in this case.:

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1 **a. Disciplinary Action by the Division of Occupational and Professional**
2 **Licensing of the Department of Commerce of the State of Utah.** Respondent is subject to
3 disciplinary action under Code section 2761, subdivision (a)(4), on the grounds of unprofessional
4 conduct in that Respondent's registered nurse license was disciplined by the Division of
5 Occupational and Professional Licensing of the Department of Commerce of the State of Utah
6 ("Utah Board"). On or about May 16, 2005, pursuant to the Default Order issued by the Utah
7 Board, in the disciplinary action entitled, *In the Matter of the License of Lewis Eugene Bowman*
8 *to Practice as Registered Nurse in the State of Utah*, Case No. DOPL-2004-8 and DPOL-OSC-
9 2004-8, the Utah Board revoked Respondent's registered nurse license. The basis for the
10 discipline is that pursuant to the January 15, 2004 Order by the Utah Board, Respondent was
11 required to participate in random drug screening. On August 3, 2004 and August 4, 2004,
12 Respondent's drug screening results were positive for marijuana. Further, Respondent failed to
13 submit a therapy report which was due August 27, 2004.

14 **b. Unprofessional Conduct.** Respondent is subject to disciplinary action
15 under Code section 2761, subdivision (a), in that Respondent committed acts of unprofessional
16 conduct. The conduct is more particularly described in paragraph 3, subparagraph (a), inclusive,
17 above, and herein incorporated by reference.

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ORDER

IT IS SO ORDERED that Registered Nurse License No. 614089, heretofore issued to Respondent Lewis E. Bowman, aka Lewis Eugene Bowman, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on March 8, 2013.

It is so ORDERED February 8, 2013



FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

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DOJ Matter ID:LA2012507815

Exhibit A

Accusation Case No. 2013-245

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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. **2013-245**

11 **LEWIS E. BOWMAN, AKA LEWIS**
12 **EUGENE BOWMAN**
13 **P.O. Box 71678**
Salt Lake City, UT 84171

A C C U S A T I O N

14 **Registered Nurse License No. 614089**

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
19 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
20 Consumer Affairs.

21 2. On or about February 20, 2003, the Board of Registered Nursing issued Registered
22 Nurse License Number 614089 to Lewis E. Bowman, aka Lewis Eugene Bowman
23 ("Respondent"). The Registered Nurse License expired on August 31, 2004, and has not been
24 renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing ("Board"), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

STATUTORY PROVISIONS

5. Section 118, subdivision (b) of the Code provides, in pertinent part:

"(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground."

6. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

7. Section 2761 of the Code provides, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

...

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action ..."

1 8. Section 2811, subdivision (b) of the Code provides:

2 "Each such license not renewed in accordance with this
3 section shall expire but may within a period of eight years thereafter
4 be reinstated upon payment of the biennial renewal fee and penalty
5 fee required by this chapter and upon submission of such proof of
6 the applicant's qualifications as may be required by the board,
7 except that during such eight-year period no examination shall be
8 required as a condition for the reinstatement of any such expired
9 license which has lapsed solely by reason of nonpayment of the
renewal fee. After the expiration of such eight-year period the board
may require as a condition of reinstatement that the applicant pass
such examination as it deems necessary to determine his present
fitness to resume the practice of professional nursing."

10 **REGULATORY PROVISIONS**

11 9. California Code of Regulations, title 16, section, 1419.3 provides:

12 "In the event a licensee does not renew his/her license as provided
13 in Section 2811 of the code, the license expires. A licensee
14 renewing pursuant to this section shall furnish a full set of
fingerprints as required by and set out in section 1419(b) as a
condition of renewal.

15 (a) A licensee may renew a license that has not been expired for
16 more than eight years by paying the renewal and penalty fees as
17 specified in Section 1417 and providing evidence of 30 hours of
continuing education taken within the prior two-year period.

18 (b) A licensee may renew a license that has been expired for more
19 than eight years by paying the renewal and penalty fees specified in
20 Section 1417 and providing evidence that he or she holds a current
21 valid active and clear registered nurse license in another state, a
United States territory, or Canada, or by passing the Board's current
examination for licensure."

22 **COST RECOVERY**

23 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
24 administrative law judge to direct a licentiate found to have committed a violation or violations of
25 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
26 enforcement of the case.

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1 3. Taking such other and further action as deemed necessary and proper.

2 DATED: OCTOBER 09, 2012 *Louise Bailey*

3 *for* LOUISE R. BAILEY, M.ED., RN
4 Executive Officer
5 Board of Registered Nursing
6 Department of Consumer Affairs
7 State of California
8 Complainant

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